



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5961-N-01]**

**Additional Clarifying Guidance, Waivers, and Alternative Requirements for Grantees in Receipt of Community Development Block Grant (CDBG) Disaster Recovery Grant Funds Under the Disaster Relief Appropriations Act, 2013**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice provides clarifying guidance, waivers, and alternative requirements for Community Development Block Grant Disaster Recovery (CDBG-DR) grantees in receipt of funds under the Disaster Relief Appropriations Act, 2013 (the Appropriations Act). This notice modifies requirements for projects funded by the HUD-sponsored Rebuild by Design (RBD) competition, described in **Federal Register** notices published on July 29, 2013 (78 FR 45551); August 23, 2013 (78 FR 52560); October 16, 2014 (79 FR 62182); and May 11, 2015 (80 FR 26942). These changes will allow RBD grantees to submit their required subsequent Action Plan amendments before the RBD project's design has been finalized, the draft environmental impact statement has been completed and permits for the project have been issued. Additionally, this notice modifies requirements of a notice published on March 5, 2013 (78 FR 14329), to allow grantees to submit Action Plan amendments after June 1, 2017. This notice also modifies requirements for infrastructure projects funded through the allocation of CDBG-DR funds for Hurricane Sandy. Specifically, this notice provides waivers and alternative requirements for certain infrastructure projects funded by the State of New York, including the Breezy Point Storm Drainage system, as well as for New York City's Raised Shorelines program. The notice also provides a waiver of the Housing and Community Development Act of 1974 (HCDA) to authorize the State of New Jersey to use up to \$30 million of CDBG-DR funds for the provision

of up to 21 months of rental assistance for participants in its single-family housing rehabilitation programs. The waiver for the State of New Jersey expires on December 31, 2017.

**DATES:** Effective Date: **[Insert date 5 days from date of publication in the FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7286, Washington, DC 20410; telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the “800” number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

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## **I. Background**

The Appropriations Act (Public Law 113–2, approved January 29, 2013) made available \$16 billion in CDBG-DR funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas, resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 et. seq.) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012,

and 2013. On March 1, 2013, the President issued a sequestration order pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a) and reduced the amount of funding for CDBG-DR grants under the Appropriations Act to \$15.18 billion. To date, a total of \$15.18 billion has been allocated or set aside: \$13 billion in response to Hurricane Sandy, \$514 million in response to disasters occurring in 2011 or 2012, \$655 million in response to 2013 disasters, and \$1 billion for the National Disaster Resilience Competition. This notice specifies waivers and alternative requirements and modifies requirements for Hurricane Sandy grantees in receipt of allocations under the Appropriations Act, which are described in the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329); April 19, 2013 (78 FR 23578); August 2, 2013 (78 FR 46999); November 18, 2013 (78 FR 69104); March 27, 2014 (79 FR 17173); July 11, 2014 (79 FR 40133); October 16, 2014 (79 FR 62182); April 2, 2015 (80 FR 17772); May 11, 2015 (80 FR 26942); August 25, 2015 (80 FR 51589); November 18, 2015 (80 FR 72102); and February 12, 2016 (81 FR 7567) (referred to collectively in this notice as the “prior notices”).<sup>1</sup> The requirements of the prior notices continue to apply, except as modified by this notice.

## **II. Applicable Rules, Statutes, Waivers, and Alternative Requirements**

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD’s obligation, or use by the recipient, of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good

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<sup>1</sup> Links to the prior notices, the text of the Appropriations Act, and additional guidance prepared by the Department for CDBG-DR grants, are available on the HUD Exchange website: <https://www.hudexchange.info/cdbg-dr/cdbg-drlaws-regulations-and-federal-register-notices/>.

cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title I of the HCDA. Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

For the waivers and alternative requirements described in this notice, the Secretary has determined that good cause exists and that the waivers and alternative requirements are not inconsistent with the overall purpose of title I of the HCDA. grantees may request waivers and alternative requirements from the Department as needed to address specific needs related to their recovery activities. Under the requirements of the Appropriations Act, waivers must be published in the **Federal Register** no later than 5 days before the effective date of such waiver.

*1. Amending the Requirements for Permitting and Design of RBD projects in the Subsequent Substantial Action Plan Amendment.* Paragraph VI of the October 16, 2014, **Federal Register** notice (79 FR 62182) (the RBD notice) establishes requirements for the timing of permits for RBD projects. The RBD notice requires grantees to submit a subsequent Action Plan amendment that includes a detailed description of the final RBD project “as permitted and approved from the environmental review process.” Since the publication of the RBD notice, as RBD projects have progressed and grantees have further refined implementation timelines, the Department has determined that it is not feasible to reach a level of design that facilitates permit issuance prior to the June 1, 2017, deadline for submission of the subsequent substantial Action Plan amendments. Many State and Federal agencies do not grant permits until the project design is complete and construction documents are complete. To ensure that grantee submissions of the subsequent substantial Action Plan amendments are not delayed because permits have not yet been issued, HUD is amending the RBD notice at paragraph VI.4.e to read:

*e. For RBD projects not requiring an Environmental Impact Statement (EIS) pursuant to the requirements of 24 CFR part 58:* grantee submits a subsequent substantial Action Plan amendment to reflect the final RBD project, as described in paragraph VI.6.b. This amendment must include a detailed description of the final RBD project as permitted and as approved through the environmental review process, or a detailed description of the RBD project as approved through the environmental review process and an explanation of why it is not possible to obtain permits at the time of submission. If the necessary permits have not been obtained at the time of the substantial Action Plan amendment submission, grantees must provide a plan that describes how and when the permits will be obtained. This amendment may be submitted prior to or concurrent with a grantee's submission of its Request for Release of Funds and Certifications (RROF). Following approval of the Action Plan amendment and RROF, funds from the grantee's line of credit will be made available for construction (proceed to paragraph VI.4.g).

Paragraph VI.4.f.ii of the RBD notice is amended to read:

Grantee successfully stewards the RBD project through the environmental review process, pursuant to 24 CFR part 58, and any permitting processes required to implement the RBD project. If the project is not permitted, include a description of why it is not possible to obtain permits at this time and provide a plan that describes how and when the permits will be obtained.

In addition, paragraph VI.4.f.iii of the RBD notice is amended to read:

HUD anticipates that the final EIS or other project plan development may result in material changes to the project after the grantee submits the subsequent substantial Action Plan amendment described in paragraph VI.4.f.i. If no material changes have occurred since the

previous RBD project design and scope approved by HUD in the grantee's Action Plan amendment, as determined by the grantee in consultation with HUD, no additional amendment is necessary. If the RBD project has undergone a material change, then the grantee must submit a substantial Action Plan amendment in order to describe the final RBD project, either as permitted and as approved through the environmental review process, or including an explanation of why it is not possible to obtain permits at this time and provide a plan that describes how and when the permits will be obtained. A grantee may submit its RROF concurrent with this Action Plan amendment, if applicable, and its Record of Decision for the project. Following approval of the Action Plan amendment, if applicable, and RROF, funds from the grantee's line of credit will be made available for construction.

Paragraph VI of the RBD notice also includes requirements for the certification of design standards for RBD projects. The RBD notice requires grantees to submit a subsequent substantial Action Plan amendment in which "a registered Professional Engineer (or other design professional) must certify that the design meets the appropriate code, or industry design and construction standards." HUD has determined that for most RBD projects, project design at the time of the subsequent Action Plan amendment submission will only be preliminary. Before final RBD project designs are complete, a design professional will not have sufficient information to make this certification.

Accordingly, the third subparagraph of section VI.6.b of the RBD notice is amended to read:

Grantees are also responsible for demonstrating that the RBD project is feasible, including having an appropriate preliminary design that will result in the benefits proposed. grantees must certify that the preliminary design considers the appropriate code, or industry

design and construction standards, and certify that the final design will adhere to all relevant codes and construction standards when it is complete. In addition, grantees must have a registered professional engineer (or other design professional) certify that the final design met the appropriate code, or industry design and construction standards, prior to obligation of funds by the grantee for construction.

*2. Clarifying the Requirements of the RBD Subsequent Substantial Action Plan Amendment and the Timing of the Draft EIS.* The RBD notice at paragraph VI.4.f.i includes requirements for the timeline of completing a draft EIS on an RBD project prior to or at the same time as a grantee's submission of the subsequent substantial Action Plan amendment. The RBD notice requires grantees to have a completed draft EIS by the time of the submission of the subsequent Action Plan amendment no later than June 1, 2017. This requirement was designed to ensure that the RBD project is consistent with the conceptual proposal as practicable and appropriate. HUD has determined that, as some RBD projects have progressed and implementation timelines have been refined, it may not be possible for all grantees to complete a draft EIS by June 1, 2017.

Accordingly, HUD is allowing grantees to submit a draft EIS after they have submitted their subsequent Action Plan amendment. However, as HUD noted in the RBD notice, material changes could take place at completion of the final EIS, and these changes could also occur after the subsequent substantial Action Plan amendment is approved and prior to the completion of the draft EIS. If no material changes have occurred since the previous RBD project design and scope approved by HUD in the grantee's subsequent Action Plan amendment, as determined by the grantee in consultation with HUD, no additional amendment is necessary. If the RBD project has undergone a material change after submission of the subsequent Action Plan amendment, as determined by the grantee in consultation with HUD, then the grantee must submit another

substantial Action Plan amendment in order to describe the final RBD project as permitted and as approved through the environmental review process, or include an explanation of why it is not possible to obtain permits at this time and provide a plan that describes how and when the permits will be obtained. A grantee may submit its RROF concurrent with this Action Plan amendment, if applicable, and its Record of Decision for the RBD project. Following approval of the Action Plan amendment, if applicable, and RROF, funds from the grantee's line of credit will be made available for construction.

Finally, paragraph VI.4.f.i of the RBD notice is amended to read:

i. Grantee submits a subsequent substantial Action Plan amendment to reflect the final RBD project, as described in paragraph VI.6.b. This amendment must identify the RBD project scope and design as it exists at that point. Grantees are not prohibited from proceeding with the EIS process. HUD approval of this Action Plan amendment is contingent upon whether the RBD project is consistent with the conceptual proposal as practicable and appropriate. HUD will provide clarifying guidance as to the content and format of materials that will help ensure timely approval of the Action Plan amendment under the criteria for approval of Action Plan amendments containing RBD projects described in this notice. If the Action Plan is not approved, RBD project-related costs will not be eligible following the date of disapproval until the RBD project is aligned with the RBD project as proposed in the previously approved Action Plan.

*3. Clarification of RBD Expenditure Extension Requests.* The May 11, 2015, **Federal Register** notice (80 FR 26942) includes requirements for grantees requesting expenditure extensions for RBD projects. Currently, a grantee may request an expenditure extension if the grant funds associated with the program or project at issue were obligated by HUD through a grant



agreement, and, therefore, are already subject to an established expenditure deadline. Under the May 11, 2015, notice the timeline and planning of RBD projects are to follow the process established for National Disaster Resilience (CDBG-NDR) projects. RBD projects, like CDBG-NDR projects, have already been identified and grantees are able to more accurately estimate the time frame for completion of their projects. Grantees are not required to have obligated funds to a CDBG-NDR project prior to requesting an expenditure extension.

Accordingly, paragraph VII.2 of the May 11, 2015, **Federal Register** notice is amended to read,

(2) The CDBG-DR funds associated with the program or project must have been obligated by HUD through a grant agreement, and, therefore, be subject to an established expenditure deadline. Rebuild by Design (RBD) projects, funded under the eligible “Rebuild by Design” activity in paragraph VII.4.c, of the notice published on October 16, 2014, are exempt from this requirement.

*4. Submission of a Final Action Plan Amendment for Disaster Recovery.* HUD is modifying the language in paragraph VI.A.1.a of the March 5, 2013, **Federal Register** notice regarding the submission of Action Plan amendments after June 1, 2017. The March 5, 2013, notice does not currently allow grantees to submit Action Plan amendments after June 1, 2017. While grantees must program the use of 100 percent of their allocated funds by June 1 in an approved Action Plan, HUD realizes that grantees will continue to need the flexibility of making both substantial and nonsubstantial Action Plan amendments as their programs continue to move forward and evolve after the June 1 deadline.

Accordingly, HUD is amending this language to allow grantees to submit Action Plan amendments after June 1, 2017. Subparagraph a of section VI.A.1 of the March 5, 2013, notice, as amended by the April 19, 2013, notice, is amended further to read:

Although a grantee may submit a partial Action Plan, the partial Action Plan must be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. Due to the statutory requirement that HUD may not obligate Appropriations Act funds after September 30, 2017, grantees must submit an Action Plan amendment to HUD that provides for the allocation of 100 percent of its CDBG-DR funds for its recovery programs no later than June 1, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD, as applicable.

HUD is also similarly modifying paragraph VI.3.e of the November 18, 2013, **Federal Register** notice (78 FR 69109) to read:

e. Amending the Action Plan. Paragraph 1(k) at 78 FR 14337 of the March 5, 2013, notice is amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date by which grantees must submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds no later than September 30, 2017. Grantees may

continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

Paragraph V.4(d) of the June 3, 2014, **Federal Register** notice (79 FR 31969), is also modified to read:

d. Amending the Action Plan. The prior notices are amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date by which grantees must submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

Finally, paragraph VII.2.d of the October 16, 2014, **Federal Register** notice (79 FR 62191) is modified to read:

d. Amending the Action Plan. Except as otherwise provided for in this notice, paragraph VI.A.1.k of the March 5, 2013 notice (at 78 FR 14337) is amended, as necessary, to require each grantee to submit a substantial Action Plan amendment to HUD within 120 days of the effective

date of this notice. All Action Plan amendments submitted after the effective date of this notice must be prepared in accordance with the prior notices, as modified by this notice. In addition, they must budget all, or a portion, of the funds allocated under this notice. Grantees are reminded that an Action Plan may be amended one or more times until it describes uses for 100 percent of the grantee's CDBG-DR award. The last date for grantees to submit the Action Plan amendment that provides for the allocation of 100 percent of its funds for its recovery programs is June 1, 2017, given that HUD must obligate all CDBG-DR funds not later than September 30, 2017. Grantees may continue to submit Action Plan amendments after that date. The requirement, however, to expend funds within 2 years of the date of obligation will continue to be enforced relative to each partial obligation made by HUD.

*5. Waiver of Covered project Requirements for Certain Infrastructure projects Benefiting Multiple Counties (State of New York only).* Paragraph VI.2.g of the November 18, 2013, **Federal Register** notice, (at 78 FR 69107), describes additional infrastructure requirements applicable to grantees receiving an allocation of CDBG-DR funds under that notice, including requirements for covered projects. HUD approval is required for each infrastructure project that meets the definition of a covered project, defined as having a total cost of \$50 million or more (including at least \$10 million of CDBG-DR funds), or projects that benefit multiple counties. The **Federal Register** notice published on March 27, 2014, clarified that "benefits multiple counties" means that the project is physically located in more than one county (paragraph II.1.a, Definition of "Benefits Multiple Counties," at 78 FR 17174). The State of New York has requested an exemption from the covered project requirements for two infrastructure projects located in multiple counties and which would meet the definition of a covered project. These infrastructure projects are funded through the NY Rising Community Reconstruction (NYRCR)

Program. In its request, the State contends that the NYRCR Program generally aligns with the goals of the coordination efforts that are reflected in the covered project requirements, by directly engaging local residents and business owners across neighboring communities to formulate a “grassroots” approach to rebuilding communities through investments in infrastructure. The Department, however, is providing a waiver of covered project requirements for the following two infrastructure projects identified by the State, based on the particular aspects of each project rather than on the particular components of the NYRCR Program:

a. Meadowmere Park Bridge Reconstruction project. This \$2.25 million project will reconstruct an existing footbridge that was damaged by the storm. The footbridge links an isolated portion of Nassau County with a neighboring area in Queens County. The project cost is significantly less than the funding threshold established for covered projects (i.e., \$50 million in total project costs with at least \$10 million of CDBG-DR funding), and the Department has determined that the State’s investment of CDBG-DR funds to reconstruct a footbridge that existed prior to the storm, and that happens to span two counties, does not constitute the type of infrastructure investment contemplated by the Department when it decided to establish the covered project requirements.

b. Comprehensive Green Infrastructure Assessment and Implementation project. This \$13.5 million project involves the assessment, design, and construction of green infrastructure that will be located in multiple counties that are all located within the City of New York. In an August 25, 2015, **Federal Register** notice (80 FR 51592), the Department provided the City of New York with an exemption from the covered project requirements for infrastructure projects that would not otherwise meet the definition of a covered project but that were located in multiple counties, recognizing that within the City of New York, the counties are “subordinate to

the municipal government.” The Department is now providing a waiver of the covered project requirements for the comprehensive green infrastructure assessment and implementation project in continued recognition of the unique subordinate status of counties located within the City of New York.

*6. Waiver of Requirements for New Construction Activities for Breezy Point Storm Drainage System (State of New York only).* The State of New York has requested a waiver of section 105(a)(4) of the HCDA to the extent necessary to permit new construction of a storm drainage system at Breezy Point, a privately held cooperative in Queens, by classifying the entire system as an improvement for residential purposes rather than as a public improvement under section 105(a)(2) of the HCDA, which would otherwise preclude assisting private homeowners. The State of New York has allocated up to \$19.5 million in CDBG-DR dollars to fund long-term initiatives that will protect and enhance the Breezy Point community. The Breezy Point Cooperative is a residential bungalow community consisting of 2,837 homes that are primarily wood frame, single family houses along the Rockaway Peninsula. The storm water drainage improvement project consists of three activities to address three of the most flood-prone areas in Breezy Point. One of the three projects is a storm drain system that would be implemented to collect storm water and pump it out of the area. In its request to the Department, the State contends that not funding this activity will leave residential buildings in Breezy Point, as well as emergency personnel, resources, and infrastructure, exposed to reoccurring flooding events. The State also contends that failure to undertake the improvement would allow for periodic floods to gradually degrade systems, increase the likelihood of catastrophic failures, and place people, development, and resources, at continuing and possibly escalating risk. Therefore, for the State’s

Breezy Point storm drainage system only, the Department is waiving section 105(a)4 of the HCDA to the extent necessary to allow for the new construction associated with this activity.

*7. Waiver of requirements on public facility improvement on private land for the Raised Shorelines Program (New York City only).* New York City has requested a waiver of 24 CFR 570.201(c) and 24 CFR 570.202(a)(1) to the extent necessary to permit new construction of shoreline improvements on private property. Under the CDBG Entitlement program regulations at 24 CFR 570.202(a)(1), which are applicable to units of local government, New York City may use CDBG-DR funds to finance the rehabilitation of privately owned buildings and improvements for residential purposes, including grounds improvements that are incidental to and necessary for housing rehabilitation. However, this housing rehabilitation provision does not permit the city to construct new shoreline improvements on privately held land that would minimize the threat and impact of future inland flooding (a public benefit). Additionally, the fact that part of the designated shoreline is privately owned currently precludes the city from funding this activity as an eligible public facility and improvement under the CDBG regulations at 24 CFR 570.201(c). To accomplish the mitigation goals of the resiliency project planned by the city, the physical improvements must be made to a continuous coastline made up of both public and private properties. The Raised Shorelines program will protect vulnerable areas that contain homes and businesses that were directly damaged or negatively impacted by Hurricane Sandy. The city has allocated \$109 million in HUD CDBG-DR dollars to fund the Raised Shorelines program and has determined that the construction of continuous shoreline improvements will not only protect against sea level rise in the future, but also help with the recovery effort by restoring damaged shorelines, fortifying vulnerable shorelines against storm events, and raising shorelines to protect the broader lower-lying communities against future flooding. Therefore, for the city's

Raised Shorelines program only, the Department is waiving 24 CFR 570.202(a)(1) to the extent necessary to allow for the city's shoreline improvements on private property to be classified as an eligible housing rehabilitation and preservation activity, and to allow for the new construction associated with this activity. Further, the Department is waiving section 105(a)(4) of the HCDA to the extent necessary to allow for the new construction associated with this activity that would otherwise be prohibited.

*8. Waiver to Allow the Use of CDBG-DR Funds for Rental Assistance for New Jersey*

*Homeowners in the RREM and LMI Homeowners Programs (State of New Jersey only).* In the State of New Jersey, more than 8,000 homeowners are rebuilding their Sandy-damaged homes through the State's Rehabilitation, Reconstruction, Elevation and Mitigation (RREM) Program or the Low- and Moderate-Income (LMI) Homeowners Rebuilding Program (LMI Program). Nearly 3,000 of those homeowners have already completed construction; however, the majority of remaining applicants, many of whom are LMI households, are still in the construction phase due to unanticipated delays and scarcity of available construction and/or elevation contractors in the State. While undergoing rehabilitation of their homes, most of these applicants are forced to pay not only a mortgage payment, but rent as well. In order to provide temporary financial assistance to these families, the State created the Sandy Homeowners and Renters Assistance Program (SHRAP), using \$100 million of federal Social Services Block Grant (SSBG) funds, to provide up to \$15,000 to homeowners and renters for rental assistance and/or to replace storm-damaged appliances. Once SHRAP funds were exhausted, the State used an additional \$19.5 million in SSBG funds to create the Rental Assistance Program (RAP). The RAP program provided rental assistance of up to \$1,300 per month for up to 9 months to homeowners with executed RREM or LMI Program grant agreements who are paying rent because they are



displaced by storm damage, construction, or elevation. The State estimates that these funds will be exhausted by July 2016; nevertheless, based on their analysis of RAP to date, the State projects that approximately 20–30 percent of RAP recipients will have ongoing rental assistance needs after exhausting their RAP assistance. The majority of those households will be LMI. To address this impending need, the State of New Jersey has requested to use up to \$30 million in CDBG-DR funds to continue to provide interim rental assistance for up to 21 months to families rebuilding through RREM or the LMI Program and who are already in or who apply to the RAP program, once SSBG funds are exhausted. Without a waiver, the State could not use CDBG-DR funds for subsistence-type grant payments to individuals or families. Therefore, in order to allow the State of New Jersey to continue its RAP Program, HUD is waiving the requirements at section 105(a)(8) of the HCDA to the extent necessary to allow the State of New Jersey to use up to \$30 million of its CDBG-DR allocation to provide up to 21 months of RAP assistance to eligible RREM and LMI program applicants. The State must implement this alternative requirement consistent with the approach outlined in its request and as described herein. This waiver and alternative requirement shall remain in effect until December 31, 2017, after which the State will no longer be able to use CDBG-DR funds for any new applicants to the RAP program.

### **III. Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice is 14.269.

### **VI. Finding of No Significant Impact**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section

102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Date: August 8, 2016

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Nani A. Coloretti  
Deputy Secretary

**[FR-5961-N-01]**

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